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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/639,310	08/14/2000	Jay Paul Drummond	D-1077+18	9530

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RALPH E. JOCKE
Walker & Jocke
231 SOUTH BROADWAY
MEDINA, OH 44256

EXAMINER

AKINTOLA, OLABODE

ART UNIT	PAPER NUMBER
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3691

MAIL DATE	DELIVERY MODE
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04/06/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/639,310	DRUMMOND ET AL.	
	Examiner	Art Unit	
	OLABODE AKINTOLA	3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 11, 13-20 and 23-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11 is/are allowed.
- 6) ☒ Claim(s) 1-8, 13-20 and 23-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Declaration under 37 CFR 1.132

The declaration under 37 CFR 1.132 filed 6/17/2008 is insufficient to overcome the rejection of claims based upon 35 U.S.C. 103(a) as set forth in the last Office action because: the facts presented are not germane to the rejection at issue.

Claim Objections

Claims 8, 20 and 24 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 8, 20 and 24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Given the broadest reasonable interpretation of these claims, computer readable media includes both transitory and non-transitory computer readable media. Since the transitory computer readable media is considered non statutory, these claims are therefore directed to a non statutory subject matter. Amending the claim to include non-transitory computer readable media only will overcome this rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-3, 23-28 and 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner, Dasan, Lawlor, and Simmons.

Re claims 1-3 and 25-28: See Board of Patent Appeals and Interferences' (BPAI) decision decided on April 17, 2008 (mailed on April 18, 2008). For reasons advanced by the BPAI, these claims remain rejected.

Re claims 23, 24, 30, 31, 32 and 33: These claims are rejected under the same rationale as claim 1-3 and 25-28. Examiner notes that Lawlor in view of official notice (concepts are old and well known) teaches the additional features in these claims.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner, Dasan, Lawlor, Simmons and Akiyama.

Re claim 4: See Board of Patent Appeals and Interferences' (BPAI) decision decided on April 17, 2008 (mailed on April 18, 2008). For reasons advanced by the BPAI, this claim remains rejected.

Claims 5 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner, Dasan, Lawlor, Simmons, Deaton and Jheeta.

Re claims 5 and 24: See Board of Patent Appeals and Interferences' (BPAI) decision decided on April 17, 2008 (mailed on April 18, 2008). For reasons advanced by the BPAI, these claims remain rejected.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner, Dasan, Lawlor, and Simmons.

Re claim 7: See Board of Patent Appeals and Interferences' (BPAI) decision decided on April 17, 2008 (mailed on April 18, 2008). For reasons advanced by the BPAI, this claim remains rejected.

Claims 13, 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner, Dasan, Lawlor, Simmons and Clausing.

Re claims 13, 14 and 15: See Board of Patent Appeals and Interferences' (BPAI) decision decided on April 17, 2008 (mailed on April 18, 2008). For reasons advanced by the BPAI, these claims remain rejected.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner, Dasan, Lawlor, Simmons, Clausing and Patterson.

Re claim 16: See Board of Patent Appeals and Interferences' (BPAI) decision decided on April 17, 2008 (mailed on April 18, 2008). For reasons advanced by the BPAI, this claim remains rejected.

Claims 17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner, Dasan, Lawlor, Simmons and Patterson.

Re claims 17 and 20: See Board of Patent Appeals and Interferences' (BPAI) decision decided on April 17, 2008 (mailed on April 18, 2008). For reasons advanced by the BPAI, these claims remain rejected.

Examiner notes that the (BPAI) decision decided on April 17, 2008 (mailed on April 18, 2008) sustained the rejection of previously submitted claim 23 (combination of previously submitted claims 21 and 2). Since the limitations of previously submitted claim 23 (currently claim 2) are

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the same as the current claim 17, claim 17 is similarly rejected under the same rationale as claims 13 and 2.

Claims 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner, Dasan, Lawlor, Simmons, Patterson, Gatto (USPN 5546523) and Hopper et al (USPN 5367609).

Re claims 6 and 8: See Board of Patent Appeals and Interferences' (BPAI) decision decided on April 17, 2008 (mailed on April 18, 2008).

However, Wagner, Dasan, Lawlor, Simmons, Patterson do not explicitly teach that the step (b) includes customer profile language value such that the customer can modify or change or update the language value as described in the claims.

Gatto teaches the concept of language choice in ATM is old and well known (col. 1, lines 19-25). Furthermore, Hopper teaches the concept of modifying user profile such as a selected language (col. 32, lines 13-19). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Wagner, Dasan, Lawlor, Simmons, Patterson to include the feature of modifying the user profile language as taught by Gatto and Hopper for the obvious reason of enhancing the flexibility of the machines.

Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wagner, Dasan, Lawlor, Simmons, Clausing and Martin.

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Re claims 18 and 19: See Board of Patent Appeals and Interferences' (BPAI) decision decided on April 17, 2008 (mailed on April 18, 2008). For reasons advanced by the BPAI, these claims remain rejected.

Allowable Subject Matter

Claim 11 is allowed.

Response to Arguments

Applicant's arguments filed 6/17/2008 have been fully considered but they are not persuasive.

Claim 6: Applicant's arguments with respect to claim 6 has been considered but are moot in view of the new ground(s) of rejection.

Claim 11: Applicant's arguments, see page 19, filed 6/17/2008, with respect to claim 11 has been fully considered and are persuasive. The rejection of claim 11 has been withdrawn.

Claim 14: Applicant argues that Clausing fails to teach a "servicer" as recited in the claim. However, Examiner notes that the specific nature of the "customer type" is considered non functional description language. Since Clausing describes using customer's account description, which determines what transactions a customer may perform. It would have been obvious to one of ordinary skill in the art to include such description to associate a "servicer" with a specific transaction that the servicer may perform.

Claim 18: See response to claim 14 above. Furthermore, In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking

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references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Claim 23: Lawlor in view of Official notice teaches the concepts defined in this claim.

Applicant's position that the Board Decision is improper has no merit.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OLABODE AKINTOLA whose telephone number is (571)272-3629. The examiner can normally be reached on M-F 8:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Olabode Akintola/
Primary Examiner, Art Unit 3691